

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL
RECEIVED
APR 21 1997
Federal Communications Commission
Office of Secretary

In the Matter)
)
BellSouth Petition for Forbearance from)
Application of Section 272 of the)
Communications Act of 1934, as amended,)
to Previously Authorized Services)
)
Southwestern Bell Telephone Company)
Petition for Forbearance from Application)
of Section 272 of the Communications Act)
of 1934, as amended, to Previously)
Authorized Services)

CC Docket No. 96-149

COMMENTS OF AT&T CORP.

Pursuant to the Public Notice issued on March 25, 1997, AT&T respectfully submits its Comments on Southwestern Bell Telephone Company's ("SWBT's") petition for forbearance, under Section 10 of the Communications Act of 1934, as amended,¹ from the application of the requirements of Section 272 of the Act to SWBT's E911 service.²

¹ Section 10(a) of the Act provides that the Commission shall forbear from application of any provision of the Act "if the Commission determines that -

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) forbearance from applying such provision or regulation is consistent with the public interest."

² SWBT's Petition was presented concurrently with its Reply to BellSouth's similar petition, and is offered in the alternative "to the extent that the Commission does not

(footnote continued on following page)

No. of Copies rec'd
List ABCDE

029

In its Petition, SWBT states (p. 2) that BOC provision of E911 service, which hands off emergency calls to public or private agencies in different LATAs and transmits data across LATA boundaries, has been found by the Department of Justice ("DOJ") to be in the public interest, and that the DOJ reaffirmed that the BOCs' provision of such services "does not present any threat to interexchange service competition" (emphasis supplied).³ SWBT further points out (at 2) that "the Commission has long sought to further the broad availability of 911 and enhanced 911 services."

SWBT also claims (p. 3) that "significant disruption to the operation of existing E911 systems would result" if SWBT were required to separate its E911 service into a Section 272 affiliate, as well as "disrupt the implementation of arrangements made between SWBT and competitive local service providers for various E911 and related services in connection with negotiated interconnections agreements." Finally, SWBT contends (pp. 3-4) that "Congress never intended to subject SWBT's and the other BOCs' E911 services and operations to the significant regulatory barrier that Section 272 represents."

(footnote continued from previous page)

elect to address Bell Atlantic's request for blanket forbearance [under Section 10 for RBOC provision of E911 service]."

³ SWBT cites to BellSouth's petition, to which was appended, as Attachment 3, a March 1991 DOJ letter regarding E911 service provided by Pacific Telesis ("DOJ Letter").

While SWBT's petition does not appear to satisfy the three-part Section 10 standard,⁴ AT&T would not oppose an appropriate application of the Commission's forbearance authority in connection with the imposition of Section 272 structural separation requirements on E911 services. The unique nature of the E911 services suggests that, upon a proper showing by an RBOC that its provision of E911 on an integrated basis meets the test for forbearance under the Act, it may be appropriate for a narrow exercise of the Commission's forbearance authority to allow the integrated provision of E911 service by that RBOC. In that event, however, it is important that the Commission make clear that it is not deregulating 911 and E911, that such an action provides no precedent with regard to other RBOC services, and that the RBOC accorded such forbearance authority must comply with the accounting and other nondiscrimination

⁴ As a threshold matter, SWBT's reliance on the DOJ Letter is insufficient to demonstrate that SWBT's waiver request meets the specific criteria for forbearance under Section 10, because that ruling turned on significantly different and narrower circumstances than required by Section 10 of the Act. In particular, the DOJ Letter found the service in the public interest because it permits convenient and efficient access to emergency services providers, but did not address the implications of integration of that service for potential BOC competitors in the local exchange market.

- 4 -

safeguards required under the Commission's Computer Inquiry rulings for its E911

information service,⁵ as well as the nondiscrimination and other requirements of the Act.⁶

Respectfully submitted,

AT&T CORP.

By



Mark C. Rosenblum

Leonard J. Cali

Ava B. Kleinman

Its Attorneys

295 North Maple Avenue

Room 3252J1

Basking Ridge, New Jersey 07920

(908) 221-8312

April 21, 1997

⁵ At a minimum, the RBOC must comply with the Commission's joint cost rules, 47 C.F.R. §64.901, appropriate amendments to its cost allocation manual, see 47 C.F.R. §64.903(b), and compliance with the Computer III customer proprietary network information requirements, as amended by Section 222 of the 1996 Act.

⁶ To the extent that the effect of SWBT's integrated provision of E911 service enables it exclusively to access unlisted numbers, as well as numbers available from other LECs who utilize SWBT's database for directory assistance services, such exclusive access to that information discriminates against competitive providers, and precludes them from offering their own E911 services. So long as SWBT continues to offer E911 service to end users and other carriers, it may not deny competitive providers the ability themselves to offer E911 services by denying them essential unlisted and third-party-LEC number information. This is precisely what the Section 272 safeguards are intended to prevent.

CERTIFICATE OF SERVICE

I, Rena Martens, do hereby certify that on this 21st day of April, 1997, a copy of the foregoing "Comments of AT&T Corp." was mailed by U.S. first class mail, postage prepaid, to the parties listed below:

Edward Shakin
Edward D. Young, III
Michael E. Glover
Bell Atlantic Telephone Companies
and Bell Atlantic Communications, Inc.
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

M. Robert Sutherland
A. Kirven Gilbert III
BellSouth Corporation
Suite 1700
1155 Peachtree St., N.E.
Atlanta, GA 30309-3610

R. Michael Senkowski
Robert J. Butler
Angela N. Watkins
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
Attorneys for Pacific Telesis Group

Marlin D. Ard
Randall E. Cape
Patricia L. C. Mahoney
Pacific Telesis Group
140 New Montgomery St., Rm. 1517
San Francisco, CA 94105

Margaret E. Garber
Pacific Telesis Group
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Robert M. Lynch
Durward D. Dupre
Michael J. Zpevak
Robert J. Gryzmala
Southwestern Bell Telephone Company
One Bell Center, Room 3520
St. Louis, MO 63101

Richard A. Karre
Dan L. Poolc
U S WEST, INC.
Suite 700
1020 19th Street, N.W.
Washington, D.C. 20036

Janice Myles*
Common Carrier Bureau
Federal Communications Commission
Room 544
1919 M Street, N.W.
Washington, D.C. 20554

International Transcription Service, Inc.*
2100 M Street, N.W.
Washington, D.C. 20037


Rena Martens

* By hand delivery